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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,153	11/06/2001	Timo Viero	090493	9451

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QUALCOMM INCORPORATED
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EXAMINER	
NGUYEN, PHUONGCHAU BA	
ART UNIT	PAPER NUMBER
2464	

NOTIFICATION DATE	DELIVERY MODE
05/06/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/014,153	**Applicant(s)** VIERO, TIMO	
	Examiner PHUONGCHAU BA NGUYEN	**Art Unit** 2464	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *35,43-47 and 76-80*.
   Claim(s) objected to: _____.
   Claim(s) rejected: *36-40,42,43,48,51,55-57,59-62,64-66,74 and 75*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit 2464

/PHUONGCHAU BA NGUYEN/
Examiner, Art Unit 2464

Continuation of 11. does NOT place the application in condition for allowance because:

A/. Applicant argued the objection of claim 35 for depending from a higher numbered independent claim, which would be renumbered when the application is ready for allowance.

- In reply, it is agreed that claim 35 would be renumbered upon its allowability. The objection to claim 35 is withdrawn.

B/. Applicant argued that Papovic and Kanterakis failed to teach or suggest "receiving a dynamically adjustable parameter defining allowed access slots of a physically existing random access channel.

Applicant argued that "Papovic as applied teaches that "information on what access slots are available in the current cell is broadcast by the base station on a downlink broadcast channel." (Papovic, col. 13, lines 25-28; see also, step 220 of FIG. 9.) Based on this "information" about the available RACH slots, "the mobile station generates a random access burst and transmits it to the base station. (Papovic, col. 1.3. lines 61-66.) The new secondary reference Kanterakis is introduced simply to show that the length of such a random access burst by a mobile station can be available, ranging from merely a few slots to many frames. (Office Action, pgs. 3-4.)

Even if the Exmniner is correct in characterizing the teachings of Kanterakis, and even if the proposed modification to Papovic were to be made, the proposed modification would not affect the "information" about the available RACH slots in Papovic that the Examniner is reading on the claimed "parameter" at issue, such as recited in claim 36. for example. Allowing the traffic burst transmitted by the mobile station to vary in length does not change the definition of the allowed access slots advertised by the base station. The base station in Papovic would still broadcast the same "information on what access slots are available in the current cell" and this information would still be fixed, in contrast to the "dynamically adjustable" parameter claimed.

In case the term "available" as used in Papovic is causing some confusion, Applicant notes that that the "available" random access channel access slots broadcast by the base station in Papovic are the allowed access slots defined by the selected RACH time offsets. (See, e.g., Papovic, col. 13, lines 24-28, "The diffirent time offsets aze shown as access slots and are spaced 1.25 milliseconds apart, information on what access slots are available in the current cell is broadcast by the base station on a downlink broadcast channel.") Broadcasting "what access slots are available in the current cell" is not an indication of which allowed access slots are "available" in the sense that they are not already reserved by other mobile stations - the RACH is a rartdom access channel, so access slots are not reserved ahead of time and the base station does not even know which access slots will be used. While a mobile station may use the "information" broadcast by the base station regarding the available access time slots when selecting the particular access time slots on which to transmit the burst, the reverse is not true. The definition of the available access slots for the RACH in Papovic is not affected by the number of slots a given mobile station decides to use for a particular burst of traffic.

Accordingly, Papovic and Kanterakis as applied fail to teach or suggest "receiving a dynamically adjustable parameter defining allowed access slots of a physically existing random access channel" as recited in independent claim 36, for example. Even under the Examiner's proposed modification, the definition of the allowed access slots of the RACH in Papovic is fixed, not dynamically adjustable as claimed.

The remaining independent claims (i.e., claims 37, 53, 55, 64, 74, 75) recite related subject matter to the above-identified independent claim 36, and are therefore allowable for reasons similar to those given above. Further, the dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.0I. Moreover, these claims recite additional subject matter, which is not suggested by the documents taken either alone or in combination."

-In reply, it is agreed that "Papovic as applied teaches that "information on what access slots are available in the current cell is broadcast by the base station on a downlink broadcast channel." (Papovic, col. 13, lines 25-28; see also, step 220 of FIG. 9.) Based on this "information" about the available RACH slots, "the mobile station generates a random access burst and transmits it to the base station. (Papovic, col. 1.3. lines 61-66.) The new secondary reference Kanterakis is introduced simply to show that the length of such a random access burst by a mobile station can be available, ranging from merely a few slots to many frames. (Office Action, pgs. 3-4.) Therefore, since the length of the random access burst by the mobile station can be available, ranging from merely a few slots to many frames; and the mobile station received the available random access slots broadcasted by the base station; hence, it is inherently implied that the available random access slots broadcasted by the base station were availabe, ranging from merely a few slots to many frames. Therefore, the combined teaching of Papovic and Kanterakis is proper. Note that Applicant argued that "Papovic as applied teaches that "information on what access slots are available in the current cell is broadcast by the base station on a downlink broadcast channel." (Papovic, col. 13, lines 25-28; see also, step 220 of FIG. 9.) Based on this "information" about the available RACH slots, "the mobile station generates a random access burst and transmits it to the base station. (Papovic, col. 1.3. lines 61-66.) The new secondary reference Kanterakis is introduced simply to show that the length of such a random access burst by a mobile station can be available, ranging from merely a few slots to many frames. (Office Action, pgs. 3-4.)

-Also, in response to applicant's argument that "allowing the traffic burst transmitted by the mobile station to vary in length does not change the definition of the allowed access slots advertised by the base station. The base station in Papovic would still broadcast the same "information on what access slots are available in the current cell" and this information would still be fixed, in contrast to the "dynamically adjustable" parameter claimed", the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See Ex parte Obiaya, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). Moreover, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

/PHUONGCHAU BA NGUYEN/
Examiner, Art Unit 2464